

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY

SHERRY FARREN,

Plaintiff,

v.

CIVIL ACTION NO. 5:04-1337

JO ANNE B. BARNHART,

Defendant.

MEMORANDUM OPINION AND ORDER

By Standing Order entered nunc pro tunc July 21, 2004, and filed in this case on December 23, 2004, this matter was referred to United States Magistrate Judge R. Clarke VanDervort. Pursuant to 28 U.S.C. § 636(b)(1)(B), the Standing Order directs

Magistrate Judge VanDervort to submit proposed findings and recommendation concerning the disposition of this matter.

Magistrate Judge VanDervort submitted his Proposed Findings and Recommendation on February 10, 2006, and proposed that this court (1) confirm and accept the factual and legal analysis within his Proposed Findings and Recommendation, (2) deny plaintiff's motion for judgment on the pleadings, (3) deny defendant's motion for judgment on the pleadings, and (4) reverse the final decision of the Commissioner, and (5) remand this matter to the Commissioner for further proceedings consistent with the proposed finding and recommendation pursuant to the fourth sentence of 42 U.S.C. § 405(g).

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge VanDervort's Proposed Findings and Recommendation. The failure of any party to file objections within the appropriate time frame constitutes a waiver of such party's right to a de novo review by this court.


Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140 (1985). No objections have been filed by either party.

Having reviewed the Findings and Recommendation filed by Magistrate Judge VanDervort, the court hereby (1) **CONFIRMS** and **ACCEPTS** the factual and legal analysis within the magistrate judge's Proposed Findings and Recommendation, (2) **DENIES** plaintiff's motion for judgment on the pleadings, (3) **DENIES** defendant's motion for judgment on the pleadings, (4) **REVERSES** the final decision of the Commissioner, and (5) **REMANDS** this matter to the Commissioner for further proceedings consistent with the proposed finding and recommendation pursuant to the fourth sentence of 42 U.S.C. § 405(g).

The Clerk is directed to forward a certified copy of this written opinion and order to all counsel of record and to any unrepresented party.

It is **SO ORDERED** this 2nd day of March, 2006.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber
Chief Judge